



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 27, 1998

Mr. Rus Bailey
Assistant District Attorney
Randall County
Randall county Courthouse
501 16th Street
Canyon, Texas 79015

OR98-1050

Dear Mr. Bailey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 114484.

Randall County (the "county") received a request for access to records of bad checks, if any, written by Randall County Commissioner Jan Reid, including the names of merchants, the amount of the bad checks, when they were written and the dates of collection efforts by the District Attorney's Office. You assert that the information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered your arguments and have reviewed the information submitted.

Initially, we acknowledge your argument that "the information sought is not provided by a law enforcement agency but a business entity seeking payment on a check they accepted." However, we note that all information held by a governmental body under the Open Records Act (the "Act") is open unless it is excepted from disclosure by one or more of the act's specific exceptions. Open Records Decision Nos. 565 (1990); 535 (1989); 526 (1989). Therefore, as the information appears to be held by the county, it is subject to disclosure under the act unless an exception applies to it. We will therefore consider your argument under section 552.108.

Section 552.108, the "law enforcement exception," provides:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation

that did not result in conviction or deferred adjudication; or (3) it is information that: (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or (B) reflects the mental impressions or legal reasoning of an attorney representing the state.

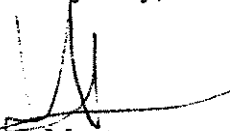
(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [public disclosure] if: (1) release of the internal record or notation would interfere with law enforcement or prosecution; (2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or (3) the internal record or notation: (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or (B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

You inform us that in this matter, the investigation did not result in conviction or deferred adjudication against Commissioner Jan Reid. Therefore, we find that section 552.108(a)(2) is applicable to this request. However, we note that "basic information about an arrested person, an arrest, or a crime" is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report. *See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.3d 177 (Tex. Civ. App.--Houston [14th dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Upon review of the submitted information, we conclude that it consists entirely of basic information for purposes of section 552.108(c). Therefore, we find that the submitted information must be released to the requestor. We have enclosed a copy of Open Records Decision No. 127 (1976) for your convenience.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/MAP/ch

Ref.: ID# 114484

Enclosures: Submitted documents
Open Records Decision No. 127 (1976)

cc: Mr. Herman Guetersloh
P.O. Box 2091
Amarillo, Texas 79166
(w/o enclosures)